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A handwritten signature in black ink, reading "Hannah L. Blumenstiel", is written over a horizontal line.

HANNAH L. BLUMENSTIEL

U.S. Bankruptcy Judge

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*Attorneys for Defendant*

*Uber Technologies, Inc.*

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

In re:

ANTHONY SCOTT LEVANDOWSKI,

Debtor.

Bankruptcy Case  
No. 20-30242 (HLB)  
Chapter 11

Hon. Hannah L. Blumenstiel

Adv. Pro. No. 20-03050 (HLB)

ANTHONY LEVANDOWSKI, an individual,

Plaintiff,

v.

UBER TECHNOLOGIES, INC.,

Defendant.

**ORDER APPROVING STIPULATION  
REGARDING USE OF PRIOR  
TESTIMONY OF WITNESSES AT  
TRIAL AND AUTHENTICITY OF  
EXHIBITS**

1 The Court having considered the *Stipulation Regarding Use of Prior Testimony of*  
2 *Witnesses at Trial and Authenticity of Exhibits*, dated January 19, 2022 [Dkt. No. 394] as agreed to  
3 by plaintiff, Anthony Levandowski, defendant, Uber Technologies, Inc., and intervenor Google  
4 LLC; and good cause appearing;

5 **IT IS HEREBY ORDERED THAT:**

6 1. In lieu of live testimony at trial, the Parties may present the prior testimony of any  
7 of the following witnesses from this case and/or the Related Proceedings, without the need for a  
8 showing of the unavailability of such witnesses for trial pursuant to FRE 804(b)(1):

- 9 a. Chelsea Bailey
- 10 b. Matthew Blattmachr
- 11 c. Alex Cooper
- 12 d. Dmitri Dolgov
- 13 e. Pierre-Yvez Droz
- 14 f. Ognen Stojanovski
- 15 g. Stacey Sullivan
- 16 h. Sebastian Thrun
- 17 i. John Bares

18 2. Nothing in this Order shall affect, and the Parties expressly reserve all rights to  
19 raise at trial, any objections other than the availability or unavailability of the witnesses listed  
20 above, including other objections under FRE 804.

21 3. The Parties previously stipulated in writing that the prior testimony of John Hartog  
22 and Brian Durrell may be used in lieu of the Parties calling those experts to testify. [Dkts. 104,  
23 105.] Nothing in this Order modifies or limits that prior stipulation.

24 4. For the avoidance of doubt, the Parties agree that, for the witnesses listed in  
25 paragraphs 1 and 3 above, there will be no live testimony presented at trial.

26 5. For any witnesses whose prior testimony will be presented at trial, including those  
27 listed above, the Parties shall comply with the following disclosure schedule:  
28

- 1 a. On or before January 31, 2022, for each witness that a Party intends to rely  
2 upon for its case-in-chief, the Party shall provide designations of the  
3 witness's prior testimony to the opposing Party.
- 4 b. On or before February 10, 2022, for each witness that a party has provided  
5 designations of prior testimony pursuant to subparagraph (a) above, the  
6 opposing Party shall provide any objections to those designations as well  
7 as any counter-designations. The Parties agree that any counter-  
8 designations provided shall be for the limited purpose of adding any  
9 additional context necessary for the testimony designated pursuant to  
10 subparagraph (a) above.
- 11 c. Any designations or counter-designations by Plaintiff shall be provided in  
12 yellow. Any designations or counter-designations by Defendant shall be  
13 provided in orange.
- 14 d. The Parties shall attempt in good faith to complete their exhibit lists by the  
15 January 24, 2022 deadline set by the Court. However, if necessary, a Party  
16 may supplement its exhibit list with any exhibits associated with testimony  
17 designated pursuant to subparagraphs (a) and (b) above by February 10,  
18 2022. Any supplemental exhibit list and exhibits identified by a Party  
19 pursuant to this paragraph shall be submitted to the Court by February 10,  
20 2022 in accord with the requirements of subparagraph 9.b of the Trial  
21 Scheduling Order dated December 21, 2021 [Dkt. No. 376]. Nothing in this  
22 stipulation shall affect, and the Parties expressly reserve, all rights to raise  
23 any objections to any exhibits added through designations.
- 24 e. If necessary, the Parties shall meet and confer in good faith to determine a  
25 schedule for providing designations of prior testimony for any of the  
26 witnesses listed in paragraph 1 above to be used in Plaintiff's rebuttal case,  
27 if any. For the avoidance of doubt, Mr. Levandowski shall be permitted, if  
28 he so chooses, to present a rebuttal case as to any counterclaim(s) or

1 affirmative defense(s) that Uber presents as part of its case-in-chief, subject  
2 to all appropriate objections, if any.

3 6. The following procedures shall apply with respect to pre-trial briefs and the  
4 treatment of confidential prior testimony designations, exhibits, and testimony at trial:

- 5 a. The courtroom shall be sealed during all proceedings at trial, subject to  
6 later unsealing of the public record, as set forth in subparagraph (c) below.
- 7 b. All exhibits, prior testimony designations, and pre-trial briefs shall be  
8 provisionally sealed, subject to later unsealing, as set forth in subparagraph  
9 (c), below.
- 10 c. Any party seeking to keep any portion of the record, whether pre-trial  
11 briefs, transcripts of proceedings, prior testimony designations, or exhibits,  
12 under seal shall file a Motion to Seal within 30 days of the conclusion of  
13 the trial (or the next business day, if the 30<sup>th</sup> day falls on a court holiday or  
14 weekend) specifying the specific text of a pre-trial brief, pages and lines of  
15 transcript, and exhibits or portions of exhibits which it seeks to have sealed  
16 and explaining why that material should be sealed. Any party may file a  
17 response to a Motion to Seal within 40 days of the conclusion of the trial  
18 (or the next business day, if the 40<sup>th</sup> day falls on a court holiday or  
19 weekend).
- 20 d. All portions of the pre-trial briefs, transcripts of proceedings, prior  
21 testimony designations, and exhibits which are not the subject of a Motion  
22 to Seal shall be unsealed and placed in the public record, and the Court will  
23 rule on any Motions to Seal.
- 24 e. Notwithstanding subparagraphs (a)–(d) above, the Court may alternatively  
25 direct the Parties and any appropriate third parties to submit motions to seal  
26 any portions of the pre-trial briefs by no later than February 14, 2022.

27 7. The parties agree that any witness on a Party's witness list for its case-in-chief  
28 shall be sequestered until excused; provided, however, that (a) the foregoing shall not apply to

1 each Party's designated Party representative at trial, and (b) an expert witness may be present  
2 during the testimony of the opposing Party's expert on the same topic.

3 8. The Parties agree that any document that has been produced in the Related  
4 Proceedings by any Party or third party with a Bates stamp is authentic. The parties reserve all  
5 other objections to exhibits.

6  
7 APPROVED AS TO FORM:

8 GOODWIN PROCTER LLP

9  
10 By: /s/ Brett M. Schuman  
Brett M. Schuman  
11 Rachel M. Walsh

12 *Counsel for Plaintiffs and Debtor and Debtor in*  
13 *Possession Anthony Levandowski*

14 MUNGER, TOLLES & OLSON LLP

15  
16 By: /s/ John W. Berry  
John W. Berry  
17 Thomas B. Walper  
Alexander S. Gorin

18 - and -

19 KEKER, VAN NEST & PETERS LLP

20  
21 By: /s/ Rachael E. Meny  
Rachael E. Meny  
22 Thomas E. Gorman

23 *Counsel for Google LLC*

24  
25 \*\*\* END OF ORDER \*\*\*  
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27  
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